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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,246	05/30/2001	Arthur Gelston	Vis. Med.	8826
7590	01/17/2006		EXAMINER	
Wayne M. Kennard Hale and Dorr LLP 60 State Street Boston, MA 02109			TOMASZEWSKI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,246

Applicant(s)

GELSTON, ARTHUR

Examiner

Mike Tomaszewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 23 December 2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the application filed on 30 May 2001. Claims 1-20 are pending. The IDS statements filed on 23 December 2002 and 6 February 2003 have been entered and considered.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed on 30 May 2001. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9, 11, 13-16, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (5,924,074; hereinafter Evans).

(A) As per claim 9, Evans discloses a method for use in managing medical information (Evans: abstract), comprising:

- (i) providing a first user interface for tracking patient care (Evans: col. 5, lines 56-57; col. 6, lines 38-40; Fig. 5);
- (ii) providing a second user interface for prescribing a medication (Evans: col. 5, lines 56-57; col. 11, lines 67; col. 12, lines 1-4; Fig. 21);
- (iii) providing a third user interface for prescribing a medical procedure (Evans: col. 5, lines 56-57; col. 11, lines 37-40; Fig. 20);
- (iv) providing a fourth user interface for presenting a result of a patient test (Evans: col. 5, lines 56-57; col. 7, lines 11-12; Fig. 7); and
- (v) providing a fifth user interface for scheduling caregiver timing (Evans: col. 5, lines 56-60; Fig. 3).

(B) As per claim 11, Evans discloses the method of claim 9, further comprising:

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applying a decision support system to the result of the patient test (Evans: col. 5, lines 21-28; Fig. 4; Examiner notes that the Evans system accumulates various information, such as patient test data, and then communicates with the reference database to provide decision support.).

(C) As per claim 13, Evans discloses the method of claim 9, further comprising: basing at least one of the first, second, third, fourth, and fifth user interfaces on laboratory data drawn from a database (Evans: col. 5, lines 56-57; col. 7, lines 11-12; Fig. 7).

(D) As per claim 14, Evans discloses the method of claim 9, further comprising: basing at least on of the first, second, third, fourth, and fifth user interfaces on patient record data drawn from a database (Evans: col. 5, lines 56-57; col. 6, lines 38-40; Fig. 5).

(E) As per claim 15, Evans discloses the method of claim 14, further comprising: updating the patient record data in real time (Evans: col. 5, lines 37-40; Fig. 2).

(F) As per claim 16, Evans discloses the method of claim 9, further comprising: basing at least one of the first, second, third, fourth, and fifth user interfaces on past experience patient data drawn from a database (Evans: col. 10, lines 36-37; Fig. 17A).

(G) As per claim 17, Evans discloses a method for use in managing medical information (Evans: abstract), comprising:

- (i) allowing user interaction for entering a prescription order and for viewing a result of a patient test (Evans: col. 11, line 67 and col. 12, lines 1-4; Fig. 21; Fig. 21; Examiner notes that the Evans Medication Manager System provides a means for documenting and subsequently viewing a patient's results/reactions to a prescription.); and
- (ii) detecting an instance of a predetermined scenario having a combination of vital signs (Evans: col. 11, lines 17-22; Fig. 18; col. 12, lines 16-34; Fig. 21; Examiner notes that the Evans system allows the user to predetermine various scenarios by altering a patient's allergies, diagnosis history, and the like.); and
- (iii) providing the user with an indication of the detection (Evans: col. 12, lines 1-4; Fig. 21, reference numeral 358 in particular).

(H) As per claim 18, Evans discloses the method of claim 17, further comprising: allowing the user to help define the predetermined scenario using a Boolean statement (Evans: col. 11, lines 17-22; Fig. 18; col. 12, lines 16-34; Fig. 21).

Examiner notes that the Evans system allows the user to predetermine various scenarios by altering a patient's allergies, diagnosis history, and the like. In part, this is

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achieved via "behind-the-scenes" Boolean algebraic statements (i.e., statements of, relating to, or being part of a logical combinatorial system that represents, symbolically, relationships (as those implied by the logical operators AND, OR, and NOT) between entities. For example, a user employing the Evans Medication Manager System may select a number of allergies and/or conditions possessed by the patient (e.g., penicillin and asthma). The Evans Medication Manager System will in turn query the other modules of the system for data corresponding to the Boolean statement "penicillin AND asthma" and return the results.

(I) As per claim 19, Evans discloses the method of claim 17, further comprising: allowing the user to help define the predetermined scenario by selecting from categories including diagnostic information, demographic information, and medication information (Evans: col. 6, lines 37-40; Fig. 5; col. 11, lines 1; col. 12, lines 1-15; Fig. 21).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074; hereinafter Evans) in view of Black (6,307,956; hereinafter Black) and further in view of Belzer et al. (5,905,493; hereinafter Belzer).

(A) As per claim 1, Evans discloses a computer-based system for providing decision support in a hospital environment (Evans: abstract) comprising:

- (i) a plurality of electronic displays comprising data fields wherein the displays are modeled upon or closely depict hospital information formats selected from the list comprising: order forms, patients records, status reports, information screens, medical imaging results or lab results (Evans: Fig. 3);
- (ii) a plurality of terminals, wherein each terminal has user interactive means for displaying the images for user interaction with the system (Evans: Fig. 24);
- (iii) a means operatively associated with each terminal for efficient identification of the authorized user (Evans: col. 15, lines 21-24);
- (iv) computer means enabling images to be accessed in an interactive manner by an authorized user (Evans: Fig. 8);
- (v) data storage means (Evans: Fig. 24);

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- (vi) a central data processing system supporting system logic wherein the central data processing system can transfer information between the plurality of terminals and one or more database servers (Evans: Fig. 24);
- (vii) one or more database servers for transferring information between said data storage means and said central data processing system (Evans: Fig. 24); and
- (viii) system logic, modeled on hospital procedures, wherein said logic comprises two types of decision support, one that is user interactive and one that functions independently of user commands (Evans: col. 5, lines 20-24; col. 11, lines 10-30; Fig. 10 and 18).

Evans, however, fails to expressly disclose the use of color-coded displays and color-coded images. Nevertheless, these features are old and well known in the art, as evidenced by Belzer.

In particular, Belzer discloses a computer-based system comprising:

- (i) color-coded displays (Belzer: Col. 4, lines 44-67); and
- (ii) color-coded images (Belzer: Col. 4, lines 44-67).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Belzer within the Evans system with the motivation of providing a more simplified and user-friendly system (Belzer: col. 4, lines

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31-34). Examiner also notes that operating systems (e.g., Windows 95[®]), client-based web browsers (e.g., Netscape[®], Firefox[®], etc.), and various software applications allow the user to modify the color scheme of data fields, backgrounds, images, screens, displays, and the like.

The combination of Evans and Belzer, however, fails to expressly disclose a biometric means of identification. Nevertheless, this feature is old and well known in the art, as evidenced by Black.

In particular, Black discloses a computer-based system comprising:

- (iii) a biometric means of identification (Black: col. 21, lines 65-67; col. 22, lines 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned feature of Black within the system taught collectively by Evans and Belzer with the motivation of providing enhanced security and reliability (Black: col. 4, lines 12-15).

(B) As per claim 2, Evans discloses the computer-based system according to claim 1, wherein said displays comprise symbols that are used in a hospital (Evans: col. 2, lines 28-31; Fig. 5, reference numerals 158, 159 and 192 in particular).

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(C) As per claim 3, Evans discloses the computer-based system according to claim 1, wherein said order forms are used for performing a task selected from the list comprising ordering diagnostic tests, ordering lab tests, prescribing medications and prescribing treatments (Evans: col. 11, lines col. 14, lines 63-64; Fig. 5, reference numeral 156 in particular).

(D) As per claim 4, Evans discloses the computer-based system according to claim 1, wherein said status reports provide data pertaining to requirements of an individual or a collection of individuals (Evans: Fig. 5-7; Note that Examiner considers "status reports" read on the various types of data reports that can be printed with the Evans system (e.g., "Progress Notes, "Problem List," etc.)).

(E) As per claim 5, Evans discloses the computer-based system according to claim 1, wherein said information screens provide warnings with or without additional information (Evans: col. 12, lines 16-19; Fig. 21, reference numeral 358 in particular and Fig. 22, reference numeral 365 in particular).

(F) As per claim 6, Evans discloses the computer-based system according to claim 1, wherein said user interactive means is a touch screen (Evans: col. 14, line 63).

(G) As per claim 7, neither Evans nor Belzer expressly disclose the computer-based system according to claim 1, wherein said biometric means is an optical scanner.

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Nevertheless, this feature is old and well known in the art, as evidenced by Black. In particular, Black discloses a computer-based system wherein said biometric means is an optical scanner (Black: col. 14, lines 3-4; col. 22, line 7; Fig. 3A and 3B).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned feature of Black within the collective system taught by Evans and Belzer with the motivation of providing enhanced security and reliability (Black: col. 4, lines 12-15).

(H) As per claim 8, neither Evans nor Belzer expressly disclose the computer-based system according to claim 6, wherein said optical scanner recognizes the fingerprints, thumbprints or retina of the authorized users.

Nevertheless, this feature is old and well known in the art, as evidenced by Black. In particular, Black discloses a computer-based system wherein said optical scanner recognizes the fingerprints, thumbprints or retina of the authorized users (Black: col. 21, lines 65-67; col. 22, lines 1; Fig. 3A and 3B).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned feature of Black within the collective system taught by Evans and Belzer with the motivation of providing enhanced security and reliability (Black: col. 4, lines 12-15).

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7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to Claim 9 above, and further in view of Black.

(A) As per claim 10, Evans fails to expressly disclose the method of claim 9, further comprising: using an optical scanner verification system to control access to the third user interface.

Nevertheless, this feature is old and well known in the art, as evidenced by Black. In particular, Black discloses the use of an optical scanner verification system to control access to user interfaces (Black: col. 14, lines 3-4; col. 22, line 7; Fig. 3A and 3B).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned feature of Black within the Evans system with the motivation of providing enhanced security and reliability (Black: col. 4, lines 12-15).

Moreover, the Examiner notes that multiple implementations of Applicant's optical scanner system would provide a plurality of verification steps (e.g., biometric verification to access main system, biometric verification to access third user interface, etc.), and the courts have held that merely duplicating parts is obvious. In re Harza, 274 F. 2d 669, 124 USPQ 378 (CCPA 1960).

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to Claim 9 above, and further in view of Garcia (5,065,315; hereinafter Garcia).

(A) As per claim 12, Evans fails to expressly disclose the method of claim 9, further comprising: using a weighted point system in the scheduling of caregiver timing.

Nevertheless, this feature is old and well known in the art, as evidenced by Garcia. In particular, Garcia discloses the use of a weighted point system in the scheduling of caregiver timing (Garcia: col. 6, lines 55-68 and col. 7, lines 1-3).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned feature of Garcia within the Evans system with the motivation of increasing the efficiency of a medical facility (Garcia: col. 2, lines 24-25).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Belzer.

(A) As per claim 20, Evans discloses a method for use in managing medical information (Evans: abstract), comprising:

- (i) providing a first user interface representing clinical screens in a function group (Evans: Fig. 7);
- (ii) providing a second user interface representing clinical screens outside the first function group (Evans: Fig. 8);

- (iii) providing a third user interface representing record manipulation operations (Evans: Fig. 5); and
- (iv) providing a fourth user interface representing record filtering operations (Evans: Fig. 3).

Evans, however, fails to expressly disclose a plurality of color schemes for various interfaces. Nevertheless, this feature is old and well known in the art, as evidenced by Belzer.

In particular, Belzer discloses the use of a plurality of color schemes with various interfaces (Belzer: abstract).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches an expert system for providing interactive assistance in solving problems such as health care management (5,517,405); a method and apparatus for electronically accessing and distributing personal health care information and services in hospital and homes (5,867,821); a computerized medical diagnostic and treatment advice system including list based processing (5,935,060); a patient condition and pain location and intensity communication apparatus and method (5,984,368); a method and apparatus for

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integrated management of pharmaceutical and healthcare services (6,112,182); a method for remotely controlling computer resources via the Internet with a web browser (6,138,150); a hospital-based integrated medical computer system for processing medical and patient information using specialized functional modules (6,272,481); an apparatus and method for processing and/or for providing healthcare information and/or healthcare-related information (6,283,761); and a device for communicating with a voice-disabled patient (6,422,875).

The cited but not applied prior art also includes non-patent literature articles by Joe Hutsko ("Programs That Can Redecorate Your Computer Screen" Oct. 14, 1999. New York Times. Pg. G.11.) and Roger Taylor ("Vision Insights: Roger Taylor on a System Which May Offer a Solution For Those Who Suffer From Colour-Blindness" Oct. 30, 1997. Financial Times. pg. 26.).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER